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OFFICE OF PETITIONS

In re Application of
Fritz Schaeffer
Application No. 09/669,400
Filed: September 22, 2000
Attorney Docket No. 52647-1

ON PETITION

This is a decision on the petition under 37 CFR 1.137(b)¹, filed May 17, 2005, to revive the above-identified application.

The petition is **GRANTED**.

Although a three month extension of time was filed October 4, 2004 with the response to a Final Office Action mailed April 4, 2004, the instant application became abandoned on October 5, 2004, for failure to submit a proper and timely response to the office action. By Advisory Action dated November 3, 2004, petitioners were informed that the reply filed October 4, 2004, did not place the application in condition for allowance. A Request for Continued Examination (RCE) was filed December 2, 2004 but a petition to revive had not been filed.

¹Effective December 1, 1997, the provisions of 37 CFR 1.137(b) now provide that where the delay in reply was unintentional, a petition may be filed to revive an abandoned application or a lapsed patent pursuant to 37 CFR 1.137(b). A grantable petition filed under the provisions of 37 CFR 1.137(b) must be accompanied by:

(1) the required reply, unless previously filed. In a nonprovisional application abandoned for failure to prosecute, the required reply may be met by the filing of a continuing application. In an application or patent, abandoned or lapsed for failure to pay the issue fee or any portion thereof, the required reply must be the payment of the issue fee or any outstanding balance thereof.

(2) the petition fee as set forth in 37 CFR 1.17(m);

(3) a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional. The Commissioner may require additional information where there is a question whether the delay was unintentional; and

(4) any terminal disclaimer (and fee as set forth in 37 CFR 1.20(d)) required pursuant to 37 CFR 1.137(c).

Since the petition is now grantable, the RCE and amendment submitted November 3, 2004 have been entered.

This matter is being referred to Technology Center 1764 for processing of the RCE and submission.

Telephone inquiries related to this decision should be directed to the undersigned Petitions Attorney at (571) 272-3212.



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Office of Petitions